

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

HERMAN GREINSTEIN, Individually and
for Others Similarly Situated,

Plaintiff,

v.

2:18-CV-208-Z-BR

GRANITE SERVICES INTERNATIONAL,
INC., *et al.*,

Defendants.

ORDER

Before the Court is Defendants' Motion to Reconsider Denial of Motion for Summary Judgment ("Motion"). ECF No. 270. On June 28, 2023, the Court granted Defendants' motion to certify for interlocutory appeal this Court's order adopting the Magistrate Judge's findings, conclusions, and recommendation ("FCR") denying the parties' motions for summary judgment. ECF Nos. 192, 194, 235, 260.


The United States Court of Appeals for the Fifth Circuit agreed to hear the appeal. Because a different panel resolved the certified question at issue while the instant appeal was pending, the Fifth Circuit reversed the judgment and remanded for further proceedings. *See Greinstein v. Granite Servs. Int'l Inc.*, No. 23-10781, 2024 WL 3771455 (5th Cir. Aug. 13, 2024) (per curiam); ECF Nos. 268, 269. In short, the Fifth Circuit held that, in accordance with its decision in *Gentry v. Hamilton-Ryker IT Solutions, Inc.*, 29 C.F.R. Section 541.604(a) supplements — but does *not* override — Section 602(a). *Greinstein*, 2024 WL 3771455, at *2; 102 F.4th 712 (5th Cir. 2024). "[R]ather than triggering an 'additional hurdle' to satisfy the salary-basis test, § 604(a) permits

additional pay so long as the underlying compensation scheme satisfies § 602(a)." *Greinstein*, 2024 WL 3771455, at *2.

Because this Court adopted the Magistrate's FCR, which turned solely on the statutory relationship between Sections 602(a) and 604(a), Defendants' Motion to Reconsider is **GRANTED**. *See Texas v. Mayorkas*, No. 2:22-CV-094, 2022 WL 4240894, at *1 (N.D. Tex. Sept. 14, 2022) (permitting reconsideration of interlocutory orders under Federal Rule of Civil Procedure 54(b)). This Court **ORDERS** both parties to confer and submit a joint briefing schedule regarding any renewed summary-judgment motions, responses, and replies **on or before March 24, 2025**.

SO ORDERED.

March 12, 2025



MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE